

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Boards of Trustees of the Ohio :  
Laborers' Fringe Benefit :  
Programs, :  
Plaintiffs, :  
v. : Case No. 2:06-cv-0490  
Beaverdam Contracting, Inc., : JUDGE SMITH  
et al., :  
Defendants. :

REPORT AND RECOMMENDATION

This case came before the Court on March 5, 2008 for a hearing on plaintiff's motion to show cause why the defendants should not be held in contempt for various failures to comply with prior orders of the Court. Exhibits presented at the hearing and made a part of the record (see doc. # 39) show that the defendants are now current on their obligations to the plaintiff, but also show that payments were not timely made, that defendants have not yet acquired a bond for their fringe benefit contributions as ordered by the Court, and that plaintiff incurred \$1,267.50 in attorneys' fees in connection with the contempt proceedings.

At the hearing, plaintiff's counsel withdrew any request for imprisonment or other such sanctions, but did ask for attorneys' fees as well as for an extension of the date by which defendants are required to obtain the bond. That relief appears to be appropriate. Further, defendants did not appear at the hearing to contest such relief.

Based on the foregoing, it is recommended that the Court find that defendants have committed violations of this Court's prior orders and that, as a sanction, it impose attorneys' fees in the amount of \$1,267.50, to be paid within thirty days. It is

further recommended that the time for compliance with the Court's order directing defendants to obtain a bond to secure their financial obligation to plaintiff be extended for sixty days.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within ten (10) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A judge of this Court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the magistrate judge with instructions. 28 U.S.C. Section 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the district judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir.1981).

/s/ Terence P. Kemp  
United States Magistrate Judge